

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NATIONAL COALITION ON BLACK CIVIC
PARTICIPATION, MARY WINTER, GENE
STEINBERG, NANCY HART, SARAH
WOLFF, KAREN SLAVEN, KATE KENNEDY,
EDA DANIEL, and ANDREA SFERES,

Plaintiffs,

-and-

People of the STATE OF NEW YORK, by its
attorney general, LETITIA JAMES, ATTORNEY
GENERAL OF THE STATE OF NEW YORK,

Plaintiff-Intervenor,

v.

JACOB WOHL, JACK BURKMAN, J.M.
BURKMAN & ASSOCIATES, LLC, PROJECT
1599, and JOHN and JANE DOES 1-10,

Defendants.

Civil Action No. 20-cv-8668

**DECLARATION OF FRANKLIN MONSOUR JR. IN SUPPORT OF PLAINTIFFS'
JOINT MOTION FOR SUMMARY JUDGMENT AS TO LIABILITY ON ALL CLAIMS**

I, Franklin Monsour Jr. declare as follows:

1. I am an active member of the New York Bar and am associated with the law firm Orrick, Herrington & Sutcliffe LLP, counsel for Plaintiffs National Coalition on Black Civic Participation, Mary Winter, Gene Steinberg, Nancy Hart, Sarah Wolff, Karen Slaven, Kate Kennedy, Eda Daniel, and Andrea Sferes. I make this declaration based on my personal knowledge.

2. Attached as Exhibit 1 is a true and correct copy of the J.M. Burkman & Associates Message Communications (“JMBA”) account log, Bates stamped MESSAGE0000035–36 (“JMBA Message Account Log”).

3. Attached as Exhibit 2 is a true and correct copy of the relevant excerpts from Robert Mahanian’s deposition taken on February 17, 2022 (“Mahanian Dep.”).

4. Attached as Exhibit 3 is a true and correct copy of the traceback request of the robocall disseminated by Defendants in this case, Bates stamped MESSAGE0007669.

5. Attached as Exhibit 4 is a true and correct copy of emails between Defendant Jack Burkman and Robert Mahanian, Bates stamped MESSAGE0007700.

6. Attached as Exhibit 5 is a true and correct copy of the Declaration of Plaintiff Nancy Hart, dated October 12, 2020, and filed as Docket No. 17 (“Hart Decl.”).

7. Attached as Exhibit 6 is a true and correct copy of the Declaration of Plaintiff Eda Daniel, dated October 15, 2020, and filed as Docket No. 21 (“Daniel Decl.”).

8. Attached as Exhibit 7 is a true and correct copy of the Declaration of Plaintiff Andrea Sferes, dated October 16, 2020, and filed as Docket No. 22 (“Sferes Decl.”).

9. Attached as Exhibit 8 is a true and correct copy of the Declaration of Plaintiff Sarah Wolff, dated October 14, 2020, and filed as Docket No. 18 (“Wolff Decl.”).

10. Attached as Exhibit 9 is a true and correct copy of the audio recording of the August 26, 2020 robocall, Bates stamped MESSAGE0000012.

11. Attached as Exhibit 10 is a true and correct copy of the script for the August 26, 2020 robocall (“Robocall Script”), Bates stamped DEF005683.

12. Attached as Exhibit 11 is a true and correct copy of the relevant excerpts from Adam Farragut’s deposition taken on May 20, 2022 (“Farragut Dep.”).

13. Attached as Exhibit 12 is a true and correct copy of the video of Project 1599's Elizabeth Warren press conference, introduced in the Farragut Deposition as Exhibit 35 ("Elizabeth Warren Press Conference").

14. Attached as Exhibit 13 is a true and correct copy of a Project 1599 press release, Bates stamped AFarragut-00000076 ("Project 1599 Press Release").

15. Attached as Exhibit 14 is a true and correct copy of the Arlington Center for Political Intelligence ("ACPI") brief, Bates stamped DEF004335-50 ("ACPI Brief").

16. Attached as Exhibit 15 is a true and correct copy of the Washington Post ACPI article ("Washington Post ACPI Article") dated June 4, 2019.

17. Attached as Exhibit 16 is a true and correct copy of the materials produced as a result of a search warrant to Google, Bates stamped NYOAG0009784-809 ("Google Search Warrant Emails").

18. Attached as Exhibit 17 is a true and correct copy of emails between Defendants Burkman and Wohl, and Robert Mahanian, Bates stamped MESSAGE0007723-26.

19. Attached as Exhibit 18 is a true and correct copy of JMBA check numbers 19518 and 19921 issued to Message Communications, Bates stamped DEF003635.

20. Attached as Exhibit 19 is a true and correct copy of the relevant excerpts from Defendant JMBA's deposition taken on April 26, 2022 ("JMBA Dep.").

21. Attached as Exhibit 20 is a true and correct copy of emails between Defendants Jack Burkman and Jacob Wohl, and Robert Mahanian, Bates stamped MESSAGE0007729.

22. Attached as Exhibit 21 is a true and correct copy of the document titled, "Black Women's Roundtable-Eastern Michigan Michigan Coalition on Black Civic Participation," Bates stamped NCBCP003-010.

23. Attached as Exhibit 22 is a true and correct copy of emails between Jacob Wohl and Jana Hunt, Bates stamped DEF005559- DEF005570.

24. Attached as Exhibit 23 is a true and correct copy of a March 2, 2017 National Futures Association decision in *In re Nex Capital Management LLC et al.*, NFA Case No. 16-BCC-011 (“2017 NFA Decision”).

25. Attached as Exhibit 24 is a true and correct copy of Cash App receipts of payments to Jana Hunt for \$50 and \$200, Bates stamped DEF005571–72.

26. Attached as Exhibit 25 is a true and correct copy of the watermarked robocall audio recording attached to Ex. 22 at DEF005568, Bates stamped DEF005679.

27. Attached as Exhibit 26 is a true and correct copy of the non-watermarked robocall audio recording attached to Ex. 22 at DEF005570, Bates stamped DEF005680.

28. Attached as Exhibit 27 is a true and correct copy of emails between Defendants Jacob Wohl and Jack Burkman, Bates stamped DEF003283-85.

29. Attached as Exhibit 28 is a true and correct copy of Message Communication’s record of JMBA’s account creation, Bates stamped MESSAGE0007929.

30. Attached as Exhibit 29 is a true and correct copy of emails between Robert Mahanian and John Hathaway of the Ohio Attorney General’s office, Bates stamped MESSAGE0007675.

31. Attached as Exhibit 30 is a true and correct copy of an email from Defendant Jacob Wohl to Robert Mahanian, Bates stamped MESSAGE0007716-19.

32. Attached as Exhibit 31 is a true and correct copy of emails between Defendants Jack Burkman and Jacob Wohl, Bates stamped DEF003819.

33. Attached as Exhibit 32 is a true and correct copy of the Declaration of Tameka Ramsey, dated October 16, 2020, and filed as Docket No. 14 (“Ramsey Decl.”).

34. Attached as Exhibit 33 is a true and correct copy of the relevant excerpts from Tameka Ramsey’s deposition taken on May 25, 2022 (“Ramsey Dep.”).

35. Attached as Exhibit 34 is a true and correct copy of the Declaration of Plaintiff Mary Winter, dated October 15, 2020, and filed as Docket No. 15 (“Winter Decl.”).

36. Attached as Exhibit 35 is a true and correct copy of the relevant excerpts from Plaintiff Mary Winter’s deposition taken on May 9, 2022 (“Winter Dep.”).

37. Attached as Exhibit 36 is a true and correct copy of Plaintiff Mary Winter’s voter registration status, Bates stamped WINTER007–009 (“Winter Voter Registration”).

38. Attached as Exhibit 37 is a true and correct copy of the Declaration of Plaintiff Gene Steinberg, dated October 15, 2020, and filed as Docket No. 16 (“Steinberg Decl.”).

39. Attached as Exhibit 38 is a true and correct copy of Plaintiff Gene Steinberg’s prior voter registration status, Bates stamped STEINBERG005 (“Steinberg Voter Registration”).

40. Attached as Exhibit 39 is a true and correct copy of the relevant excerpts from Plaintiff Gene Steinberg’s deposition taken on May 9, 2022 (“Steinberg Dep.”).

41. Attached as Exhibit 40 is a true and correct copy of the relevant excerpts from Plaintiff Eda Daniel’s deposition taken on April 9, 2022 (“Daniel Dep.”).

42. Attached as Exhibit 41 is a true and correct copy of Plaintiff Eda Daniel’s voter registration status, Bates stamped DANIEL002 (“Daniel Voter Registration”).

43. Attached as Exhibit 42 is a true and correct copy of the relevant excerpts of Plaintiff Andrea Sferes’s deposition taken on April 19, 2022 (“Sferes Dep.”).

44. Attached as Exhibit 43 is a true and correct copy of Plaintiff Andrea Sferes's voter registration status, Bates stamped SFERES005-006 ("Sferes Voter Registration").

45. Attached as Exhibit 44 is a true and correct copy of the Declaration of Plaintiff Karen Slaven, dated October 13, 2020, and filed as Docket No. 19 ("Slaven Decl.").

46. Attached as Exhibit 45 is a true and correct copy of the relevant excerpts of Plaintiff Karen Slaven's deposition, taken on April 8, 2022 ("Slaven Dep.").

47. Attached as Exhibit 46 is a true and correct copy of Plaintiff Kate Kennedy and Karen Slaven's voter registration statuses, Bates stamped KENNEDY001-012 ("Kennedy and Slaven Voter Registrations").

48. Attached as Exhibit 47 is a true and correct copy of the Declaration of Plaintiff Kate Kennedy, dated October 13, 2020 and filed as Docket No. 20 ("Kennedy Decl.").

49. Attached as Exhibit 48 is a true and correct copy of the relevant excerpts of Plaintiff Kate Kennedy's deposition, taken on April 8, 2022 ("Kennedy Dep.").

50. Attached as Exhibit 49 is a true and correct copy of the relevant excerpts of Plaintiff Sarah Wolff's deposition, taken on May 2, 2022 ("Wolff Dep.").

51. Attached as Exhibit 50 is a true and correct copy of Plaintiff Sarah Wolff's voter registration status, Bates stamped WOLFF002 ("Wolff Voter Registration").

52. Attached as Exhibit 51 is a true and correct copy of the relevant excerpts of Plaintiff Nancy Hart's deposition, taken on April 10, 2022 ("Hart Dep.").

53. Attached as Exhibit 52 is a true and correct copy of Plaintiff Nancy Hart's Voter Registration status and a picture of her caller ID, Bates stamped HART003 ("Hart Voter Registration").

54. Attached as Exhibit 53 is a true and correct copy of the relevant excerpts from the transcript of the October 26, 2020 Hearing on Plaintiffs’ motion for a temporary restraining order, Docket No. 53 (“October 26, 2020 TRO Hearing”).

55. Attached as Exhibit 54 is a true and correct copy of the relevant excerpts from Defendants’ Brief in Support of Motion to Quash in the Wayne Circuit Court in the State of Michigan in *Michigan v. Burkman et al.*, 20-004636-01-FH, 20-004637-01-FH, Bates stamped DEF003310–13, DEF003331 (“Brief in Support of Motion to Quash”).

56. Attached as Exhibit 55 is a true and correct copy of the relevant excerpts from the transcript of a May 17, 2021 Motion Hearing (By Zoom) in the Third Judicial Circuit Court of Michigan before the Honorable Judge Margaret M. Van Houten in *Michigan v. Burkman et al.*, 20-004636-01-FH, 20-004637-01-FH (“May 17, 2021 Motion Hearing”).

57. Attached as Exhibit 56 is a true and correct copy of the relevant excerpts from Jack Burkman’s deposition taken on April 25, 2022 (“Burkman Dep.”).

58. Attached as Exhibit 57 is a true and correct copy of the relevant excerpts from Jacob Wohl’s deposition taken on May 11, 2022 (“Wohl Dep.”).

59. Attached as Exhibit 58 is a true and correct copy of a video recording of Jack Burkman’s “Behind the Curtain.”

60. Attached as Exhibit 59 is a true and correct copy of a Gab post from Jacob Wohl’s account on December 13, 2020.

61. Attached as Exhibit 60 is a true and correct copy of the Expert Report and CV of Professor Justin Grimmer.

62. Attached as Exhibit 61 is a true and correct copy of the Expert Report and CV of Professor Ange-Marie Hancock Alfaro.

63. Attached as Exhibit 62 is a true and correct copy of the Expert Report and CV of Douglas Kellner.

64. Attached as Exhibit 63 is a true and correct copy of the Consent Decree in *United States v. N.C. Rep. Party*, 91-161-CIV-5-f (E.D.N.C. Feb 27, 1992).

65. Pursuant to Judge Marrero's Individual Practices II.E., I attest that I am familiar with the full contents of the documents attached to this declaration, that I will maintain a copy of the entire documents in my case files until after a final court disposition of the action, and that the excerpts of documents filed with these motion papers are authentic copies of the relevant portions of the documents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on July 29, 2022

By: /s/ Franklin Monsour Jr.

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